



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: CRUZ-SAGREDO GARCIA, J. - 1 PCT
SERIAL NO.: 10/564,426 EXAMINER: R. H. MUROMOTO JR.
FILED: January 11, 2006 GROUP: 3765
TITLE: BARBED-TYPE MESH

BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 2313-1450

Dear Commissioner:

In accordance with the provisions of Rule 192(c), the following items under appropriate headings are provided:

(1) REAL PARTY IN INTEREST:

The real party in interest is Juan Maria Cruz-Sagredo Garcia, the inventor and applicant of the patent application identified in the caption above.

(2) RELATED APPEALS AND INTERFERENCES:

There are no other appeals or interferences known to Appellant, the Appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS:

Claims 8-13 and 15-22 are in the application and have been rejected in the Final Office Action of July 29, 2009. Claims 1-7 and 14 have been canceled. Claims 8-13 and 15-22 are being appealed.

(4) STATUS OF AMENDMENTS:

Claims 8-20 stand rejected under 35 USC 103(a) as being unpatentable over US Patent No. 2,660,406 to *Brickman* (Although claim 14 was previously canceled). Claims 21-22 stand rejected under 35 USC 103(a) as being unpatentable over US Patent No. 2,660,406 to *Brickman* in view of US Patent No. 5,577,712 to *White*.

No amendments were filed after the Final Office Action dated July 29, 2009.

(5) SUMMARY OF CLAIMED SUBJECT MATTER:

The present invention is described below with reference to the page and line numbers from the specification. Such references are for illustration only and are not intended to limit the claims. The drawings show stability data and do not show

structural or process features of the claims, so no reference to drawing reference numbers is given here.

The present invention as claimed in independent claim 8 relates to a sclerophyllic mesh (1) forming a sheet of flat mesh (2) with two opposite face sides and being made from electrowelded metallic wires or bars (4) having intersections with each other, and said mesh further comprising sharp points (5) electrowelded to said intersections of said metallic bars or wires, wherein each sharp point (5) protrudes from one side of the mesh (2). (Specification page 2, lines 19-26; FIG. 1).

As claimed in claims 9 and 10, each sharp point (5) can protrude perpendicularly or obliquely. (Specification, page 2, lines 27-28).

As claimed in claims 11 and 12, each sharp point (5) can be straight or curved. (Specification, page 2, lines 29-30).

As claimed in claim 13, the mesh (2) is formed by polygons (3) other than squares. (Specification, page 2, lines 16-18).

As claimed in independent claim 15, the invention comprises a sclerophyllic mesh (1) forming a sheet of flat mesh (2) with two opposite face sides and being made from electrowelded metallic wires or bars (4) having intersections with each other, and said mesh further comprising sharp points (5) electrowelded to said intersections of said metallic bars or wires.

(Specification page 2, lines 19-24; FIG. 1). A first part of each sharp point (5) protrudes from one side of the mesh (2) and a second part of each sharp point (5) protrudes from the opposite side of the mesh (2). (Specification, page 2, lines 25-26; FIG. 1)

As claimed in claims 16 and 17, each sharp point (5) can protrude perpendicularly or obliquely. (Specification, page 2, lines 27-28).

As claimed in claims 18 and 19, each sharp point (5) can be straight or curved. (Specification, page 2, lines 29-30).

As claimed in claim 20, the mesh (2) is formed by polygons (3) other than squares. (Specification, page 2, lines 16-18)).

As claimed in claims 21 and 22, the sharp points (5) are

made from a different material than that of the metallic bars or wires (4). Specification, page

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL:

Whether the rejection of claims 8-20 (actually claims 8-13 and 15-20, as claim 14 was canceled) under 35 USC §103 as being unpatentable over *Brickman* is proper, or should be reversed. Whether the rejection of claims 21-22 under 35 USC §103 as being unpatentable over *Brickman* in view of *White* is proper, or should be reversed.

(7) ARGUMENT

The above-defined issue is believed to be in error and should be reversed for the following reasons:

The Rejection of Claims 8-20 under 35 Usc §103 as Being Unpatentable over *Brickman* Should Be Reversed

Applicant submits that *Brickman* does not teach or disclose the sharp points to be located at the intersections of the mesh, neither in the description nor in the figures. In the present invention, the mesh is formed of a number of longitudinal wires and cross wires, and the "intersections" of said mesh are the points at which said wires are joined by electrowelding.

Thereafter, the sharp points are joined by electrowelding to the intersections.

In *Brickman*, the "intersections" are the points at which longitudinal wires and cross wires are joined. At the beginning of the process of forming the barbed wire of *Brickman*, a number of intersections are created. However, during the process "some of the cross wires are cut on a bias (...) and bent to form a substantially V-shaped barb," as stated in column 1, line 52 to column 2, line 7 of *Brickman*. Therefore, that point is no longer an intersection between a longitudinal wire and a cross wire, since that specific cross wire does not exist anymore, i.e. the cross wire has been transformed into a number of barbs.

Therefore, Applicant submits that claims 8-13 are not anticipated by *Brickman*.

Regarding claim 15, *Brickman* does not disclose a sclerophyllic mesh where one part of each point protrudes from one side of the mesh and the other part of each point protrudes from the opposite side of the mesh. In *Brickman*, each point protrudes only from one side of the mesh, either with a single point or with a V-shaped barb. In no instance in *Brickman* does a

single barb protrude from both opposite face sides of the mesh. Regarding FIG. 3 of *Brickman*, this is an end view of FIG. 2, which clearly shows each barb protruding in only a single direction. Therefore, claims 15-20 are patentable over *Brickman* as well.

The Rejection of Claims 21-22 under 35 Usc §103 as Being Unpatentable over *Brickman* in View of *White* Should Be Reversed

Claims 21 and 22 both recite that the points are formed from a different material than the mesh. However, the barbs of *Brickman* could not possibly be formed from a different material as claimed in claims 21 and 22, because the barbs of *Brickman* are formed from the crosspieces of the mesh itself. Therefore, it would be impossible to combine *Brickman* with *White* as the Examiner is suggesting to achieve the mesh of claims 21 and 22. Furthermore, since *White* also fails to disclose the mesh as claimed in claims 15, combining *Brickman* with *White* would not lead to the invention claimed in any of the appealed claims.

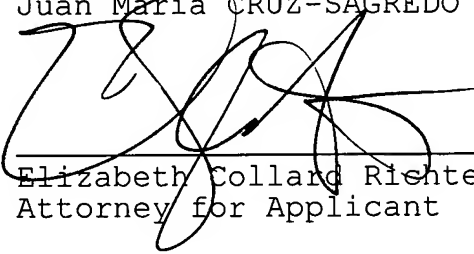
The present invention is novel and not obvious over the cited references. The European Patent Office has issued a decision to grant the corresponding European Patent Application No. EP 1647342.

Conclusion

This design of the sclerophyllic mesh claimed in claims 8-13 and 15-22 is not disclosed in or made obvious by *Brickman* or *White*, either alone or in combination. Accordingly Applicants submit that claims 18-13 and 15-22 are patentable over the cited references. Reversal of the Examiner's rejections and early allowance of the claims is respectfully requested.

Respectfully submitted,
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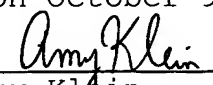


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ECR:pk

Enclosure: Appendices A-C

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 9, 2009.



Amy Klein

APPENDIX A



(9) APPENDIX

The Appealed claims are as follows:

8. A sclerophyllic mesh forming a sheet with two opposite face sides and being made from electrowelded metallic wires or bars having intersections with each other, and said mesh further comprising sharp points electrowelded to said intersections of said metallic bars or wires, wherein each sharp point protrudes from one side of the mesh.

9. The sclerophyllic mesh according to claim 8, wherein each sharp point protrudes obliquely.

10. The sclerophyllic mesh according to claim 8, wherein each sharp point protrudes perpendicularly.

11. The sclerophyllic mesh according to claim 8, wherein each sharp point is straight.

12. The sclerophyllic mesh according to claim 8, wherein each sharp point is curved.

13. The sclerophyllic mesh according to claim 8, wherein

the mesh is formed by polygons other than squares.

15. A sclerophylic mesh forming a sheet with two opposite face sides, said mesh being made of electrowelded metallic bars or wires having intersections with each other, and said mesh further comprising sharp points electrowelded to the intersections of said metallic bars or wires, and wherein a first part of each sharp point protrudes from one side of the mesh and a second part of each sharp point protrudes from the opposite side of the mesh.

16. The sclerophyllic mesh according to claim 15, wherein each sharp point protrudes obliquely.

17. The sclerophyllic mesh according to claim 15, wherein each sharp point protrudes perpendicularly.

18. The sclerophyllic mesh according to claim 15, wherein each sharp point is straight.

19. The sclerophyllic mesh according to claim 15, wherein each sharp point is curved.

20. The sclerophyllic mesh according to claim 15, wherein the mesh is formed by polygons other than squares.

21. The sclerophyllic mesh according to claim 8, wherein the sharp points are made from a different material than that of the metallic bars or wires.

22. The sclerophyllic mesh according to claim 15, wherein the sharp points are made from a different material than that of the metallic bars or wires.

APPENDIX B

Appendix B: Evidence Presented
None.

APPENDIX C

Appendix C: Related Appeals and Proceedings

None